IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

WP(C).No. 5218 of 2007(U)

PETITIONER:

P.K.KUNHAMMU, ARABIC TEACHER,
AIDED SENIOR BASIC SCHOOL, MANNALUR,
PALAKKAD DISTRICT.

BY ADV. SRI.GEORGE ABRAHAM

RESPONDENTS:
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1. **THE HEADMISTRESS, AIDED SENIOR BASIC SCHOOL, MANNALUR, PALAKKAD DISTRICT.**

2. **THE ASSISTANT EDUCATIONAL OFFICER, KUZHALMANNAM, PALAKKAD DISTRICT.**

3. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**

BY GOVT. PLEADER SHRI.BIJOY CHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

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WP(C).No.5218 OF 2007-U.

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Dated this the 19th day of February, 2007.

J U D G M E N T

The petitioner is an Arabic Teacher in an aided school of which the 1st respondent is the Headmistress and the 2nd respondent Asst. Educational Officer is the Controlling Officer. The petitioner was on duty on the reopening date of the school in the academic year 2006-2007. He availed commuted leave with effect from 14-8-2006 to 17-11-2006 and rejoined duty on the day following the expiry of the leave. The age of superannuation of teachers is 55 years and the petitioner completed that age on 15-8-2006. He claims that he is entitled to be treated as a member of the teaching staff eligible to continue in service till 31-12-2006.

2. The 1st respondent Headmistress has taken the view that going by Rule 60(c), Part I of Kerala Service Rules, the petitioner will not get the benefit of service beyond the date of his superannuation. The 1st respondent has placed reliance on Ext.P2 amendment to Rule 60(c) of Part I K.S.R. The petitioner submits that the above stand taken by the 1st respondent is contrary to the scheme of the Kerala Education Rules, particularly, Rule 62 of Chapter XIV of KER and that the above stand finds support from the

amendment to Rule 62 as per Ext.P6 notification.

3. A reading of Ext.P6 would show that the conditions mentioned in Rule 60(c) of Part I K.S.R. has been made applicable to teachers covered by Rule 62 of Chapter XIV of K.E.R. as per the aforesaid amendment.

4. The dispute between the petitioner and the 1st respondent has to be resolved by the 2nd respondent Asst. Educational Officer taking appropriate decision. The petitioner shall file representation before the said respondent to redress his grievance.

5. Counsel for the petitioner submits that due representation will be filed within one week from today. Hence there shall be an order to the Asst. Educational Officer to afford an opportunity of being heard to the petitioner and the 1st respondent within three weeks and to dispose of the representation within another three weeks.

6. In the meantime, the petitioner shall be permitted to attend duty as teacher in the school of which the 1st respondent is the Headmistress.

The writ petition is disposed of as above.

K.K.DENESAN, JUDGE.

kvs/-